

**TOWN OF DAVIE
REGULAR MEETING
February 4, 2009**

1. PLEDGE OF ALLEGIANCE

The meeting was called to order at 6:58 p.m. and was followed by the Pledge of Allegiance.

2. ROLL CALL

Present at the meeting were Mayor Truex, Vice-Mayor Luis, and Councilmembers Crowley, Hubert and Starkey. Also present were Fire Chief Montopoli, Town Attorney Rayson, and Assistant Town Clerk McDaniel recording the meeting.

3. OPEN PUBLIC MEETING

Patty Koch invited everyone to participate in the 2009 Sallarulo's Race for Champions benefiting Special Olympics of Broward County and added that the race this year was in memory of Katie Crowley. She announced that the race would take place on February 15th at Nova. Ms. Koch invited residents to contact Old Davie School for additional information.

Jason Curtis was concerned about affordable housing and urged Council to work on this issue. He extended his best wishes to Bob Munson, whose health was not good, and his family.

Donna Weddington said she had worked in Liberty Park with her scout group, asked the Town not to forget about Liberty Park.

Kerry Waldee was thankful for the new stoplight at Flamingo Commons Bridge and he hoped improved lighting would be installed soon as well. He announced his support for Judy Paul for Mayor.

Barbara Ann Tilley reported that the streets in section one of Park City Estates had never been recorded as dedicated streets in Town, as the annexation agreement provided. She explained that she had called to report potholes and Public Works had informed her that these were private streets.

Ms. Tilley stated a Park City Estates sign had been knocked down, and asked if the Public Works Department would help to reinstall it.

Miguel Fuentes, Political Director/Assistant Administrator of the Florida Carpenters Regional Council, said he admired Mayor Truex for his hard work, and the organization endorsed him for re-election.

Donna Evans stated her support for Judy Paul for Mayor.

Bob Lieberman, founder of Green Challenge, announced that Eco Fest would take place on February 7th at Maroone Toyota and more than 50 vendors would attend. He indicated that there would be eco workshops offered throughout the day, as well as food and entertainment.

Al Marseth said that he represented the residents of SW 41 Place, who had signed a petition declaring their disappointment with the citrus exchange and the septic/sewer changeover. Mayor Truex asked Chief Montopoli to schedule a meeting with the Community Redevelopment Agency (CRA) regarding this issue. Councilmember Hubert said that residents who met the hardship requirements could apply for help from the CRA, but some residents had fallen through the cracks. Councilmember Crowley remembered that when Council had discussed this, they had expressed concern about residents' having to pay for the hook-up, and asked the CRA to consider funding the tie-ins. He added that it was Broward County that required hooking up to the sewer line.

Steven Ward, resident of SW 41 Place, said that he had attended the master plan meeting, but the sewer changeover had not been discussed. He pointed out that there were many low-income residents in this area who could not afford the hook-up fee.

Judy Paul announced her candidacy for Mayor. She pledged to residents that she would review and address their concerns, and try to devise a plan to meet each challenge.

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Jennifer Starkey congratulated Mayor Truex for the job he had done as Mayor and said that she would be supporting him.

Mayor Truex advised that staff had requested that item 4.2 be tabled.

Councilmember Hubert made a motion, seconded by Councilmember Crowley, to table item 4.2 to February 18, 2009. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Truex announced that the petitioner had requested that item 6.5 be tabled to March 18th. Planning and Zoning Manager David Quigley explained that the Planning and Zoning Board had suggested tabling, and the applicant had requested the March date to address issues with the homeowners association.

Councilmember Starkey made a motion, seconded by Councilmember Hubert, to table item 6.5 to March 18, 2009. In a voice vote, all voted in favor. (Motion carried 5-0)

4. APPROVAL OF CONSENT AGENDA

Minutes

4.1 January 7, 2009 (Regular Meeting)

Home Business Tax Receipts

4.2 1st Choice, 3689 Gulfstream Way

4.3 David B. Seay, 5140 Davie Road #7

4.4 Eden Florist & Gifts Inc., 10890 SW 27 Court

Resolutions

4.5 **GRANT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,**
R-2009-28 **AUTHORIZING THE APPLICATION FOR A \$24,983.98 GRANT FROM THE BROWARD COUNTY CITIZEN CORPS COUNCIL, AND IF AWARDED, ACCEPT AND EXECUTE THE GRANT.**

4.6 **GRANT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,**
R-2009-29 **AUTHORIZING THE MAYOR TO EXECUTE AN APPLICATION FOR 2009 RECYCLING GRANT FUNDS FROM BROWARD COUNTY.**

4.7 **AMENDED AGREEMENT - A RESOLUTION OF THE TOWN OF DAVIE**
R-2009-30 **AUTHORIZING THE MAYOR TO EXECUTE A SECOND AMENDMENT TO THE AGREEMENT MADE AND ENTERED INTO BY AND BETWEEN BROWARD COUNTY A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA AND THE TOWN FOR COMMUNITY BUS TRANSPORTATION SERVICES DATED AUGUST 6, 2003. (\$350,000)**

4.8 **AGREEMENT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,**
R-2009-31 **ACCEPTING THE BID FROM PETERSON'S HARLEY DAVIDSON OF MIAMI, L.L.C. TO LEASE FIVE (5) HARLEY DAVIDSON POLICE MOTORCYCLES AND TO AUTHORIZE THE MAYOR TO EXECUTE A LEASE AGREEMENT. (\$27,000)**

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- 4.9
R-2009-32 **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE THE CDBG SUB-RECIPIENT GRANT AGREEMENT BETWEEN THE TOWN OF DAVIE AND HOPE OUTREACH CENTER, INC. TO PROVIDE EMERGENCY ASSISTANCE TO DAVIE'S LOWER-INCOME FAMILIES AND INDIVIDUALS AND PROVIDING AN EFFECTIVE DATE.
- 4.10
R-2009-33 **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE FIRM OF NABORS, GIBLIN, & NICKERSON, P.A. TO PERFORM LEGAL SERVICES RELATED TO THE FIRE RESCUE AND SOLID WASTE SERVICES ASSESSMENT PROGRAMS FOR FISCAL YEAR 2010-2012, AND PROVIDING FOR AN EFFECTIVE DATE. (\$8,500/annually)
- 4.11
R-2009-34 **CONTRACT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A RENEWAL TO THE CONTRACT AWARDED TO DUNLAP & ASSOCIATES FOR FINANCIAL CONSULTING SERVICES.
- 4.12
R-2009-35 **CHANGE ORDER** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE CHANGE ORDER #4 WITH WILLIAMS PAVING COMPANY, INC. TO CHANGE THE CONTRACTED SCOPE OF WORK AS DESCRIBED IN THE ATTACHED CHANGE ORDER #4. (reduction of \$8,619.93)
- 4.13
R-2009-36 **WAIVING FORMAL BIDDING** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING THE REFURBISHMENT OF THE PARKSON AQUA GUARD SCREEN AT THE SYSTEM II WASTEWATER TREATMENT PLANT AND WAIVING FORMAL BIDDING. (FilterONE USA, LLC - \$51,037.80)
- 4.14
R-2009-37 **GRAZING SERVICE** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, SELECTING THE FIRM LITTLE CRITTERS CORRAL, INC. TO PROVIDE CATTLE/HORSE GRAZING SERVICE FOR GOVERNOR LEROY COLLINS PARK.
- 4.15
R-2009-39 **AMENDMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING AN AMENDMENT TO THE TOWN OF DAVIE 457 DEFERRED COMPENSATION PLAN AND PROVIDING AN EFFECTIVE DATE.
- 4.16
R-2009-39 **MITIGATION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE APPROVAL OF A REQUEST FOR MITIGATION ON A CODE COMPLIANCE LIEN IN CASE NO. 08-895 FROM \$4,900.00 IN AMOUNT TO \$1,623.48; AND PROVIDING AN EFFECTIVE DATE.

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- 4.17
R-2009-40 **MITIGATION - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE APPROVAL OF A REQUEST FOR MITIGATION ON A CODE COMPLIANCE LIEN IN CASE NO. 08-401 FROM \$28,686.59 IN AMOUNT TO \$6,604.86; AND PROVIDING AN EFFECTIVE DATE.**
- 4.18
R-2009-41 **QUIT CLAIM DEED - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A QUIT CLAIM DEED TO LIVING WATERS ESTATES, LLC; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. {see related items 4.19, 4.20 and 6.3}**
- 4.19
R-2009-42 **PLAT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A PLAT KNOWN AS “LIVING WATERS ESTATES” AND AUTHORIZING THE MAYOR AND TOWN CLERK TO ACKNOWLEDGE THE APPROVAL BY AFFIXING THE MAYOR’S SIGNATURE AND THE TOWN SEAL TO SAID PLAT; AND PROVIDING AN EFFECTIVE DATE. (P 5-1-07, Living Waters Estates, 14801 SW 23 Street) *Planning & Zoning Board recommended approval with the sidewalk to be placed in the manner as described by the applicant (on the properties and as an easement) and subject to staff’s recommendations {see related items 4.18, 4.20 and 6.3}***

Quasi-Judicial Consent Agenda

- 4.20 MSP 5-1-07, Living Waters Estates, 14801 SW 23 Street (A-1) *Site Plan Committee recommended approval subject to the following: 1) that the sheets being submitted today be interlineated into the site plan package with the additional requirement that a note be added that says no Certificate of Occupancy shall be issued for 25% of the homes until all required trees and buffer trees are installed; nor shall the bond be released until that occurs; 2) that there would be no street lighting; 3) that the developer work with the Town’s landscape staff on the tree relocation; 4) that the applicant agrees to hold one more public participation meeting prior to their meeting with Town Council; and 5) the applicant would have their meeting with Central Broward Water Control District prior to the Town Council meeting {see related items 4.18, 4.19 and 6.3}*

- 4.21 SP 10-2-07, Regions Bank, 5999 South University Drive (B-2) *Site Plan Committee recommended approval subject to the following: 1) that the stone facing be added to the three columns at the main entrance up to the bottom of the arches; 2) that the stamped-asphalt crosswalks be a random pattern of simulated stone and stained; 3) that the dumpster block stone be changed to match the stone on the building; 4) that the landscaping shown in the drainage easement would remain and if it did not, the petitioner shall come back with a revised landscape plan; and 5) that the six Washingtonian Palms at the front would be replaced with Alexander Palms*

Councilmember Hubert pulled item 4.7 from the Consent Agenda. Councilmember Crowley pulled items 4.16 and 4.17 and Vice-Mayor Luis pulled item 4.18.

Councilmember Hubert made a motion, seconded by Councilmember Starkey, to approve the Consent Agenda, less items 4.7, 4.16, 4.17 and 4.18. In a voice vote, all voted in favor. (Motion carried 5-0)

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5. DISCUSSION OF CONSENT AGENDA ITEMS

4.7 Councilmember Hubert asked Programs Manager Susan Dean to discuss the importance of the Green busses. Ms. Dean stated that an amendment in January had extended the Blue bus times with the County and this resolution was to continue for 90 days, while fare discussions continued. She advised that the Green bus was now Davie's, and it was funded until the end of the year in the Town's budget. If the Town wanted to maintain a Green bus line next year, it must be completely funded by the Town, which she estimated would cost \$160,000. Ms. Dean believed the fare for the Blue bus route would be 25¢ to 50¢.

Councilmember Hubert stressed how important the Green bus was to some residents to commute to work and do their errands. Mayor Truex agreed and said that they needed to encourage additional ridership. Councilmember Starkey stated that they must continue to work with the County Commission regarding this issue.

Councilmember Hubert made a motion, seconded by Councilmember Starkey, to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

4.16 Councilmember Crowley opposed reducing the mitigation. Mayor Truex responded that this was exactly the amount suggested by the mitigation guidelines.

Code Compliance Official Danny Stallone explained that after the light overspill violation had been complied with, it had recurred, prompting a renewed complaint from the neighbor. He noted that this violation predated the night sky ordinance and had been based on subjective observation, as no photometric measurements had been taken. The \$4,900 fine was issued after the complainant, but not the respondent, had attended the Special Magistrate hearing. The \$1,623.48 amount was pursuant to the mitigation guidelines.

The owner of the property explained that the lighting had been corrected, but the neighbor had lodged additional complaints. After speaking to the neighbor, she had checked the lighting and determined the shield was properly redirecting the light and thought the violation was corrected. The owner later had an engineer take foot-candle measurements, which had registered zero. The owner felt that this was therefore a frivolous complaint. She also did not recall receiving notice of the hearing.

Mr. Stallone confirmed for Vice-Mayor Luis that the property was in compliance and Vice-Mayor Luis stated that he agreed with the mitigation amount.

Vice-Mayor Luis made a motion, seconded by Councilmember Crowley, to approve the reduced fine: \$1,623.48. In a voice vote, all voted in favor. (Motion carried 5-0)

4.17 Councilmember Crowley opposed the mitigated amount.

Councilmember Crowley made a motion to impose a \$14,000 fine. Motion died for lack of a second.

Councilmember Crowley said that even though the property was foreclosed, someone had the responsibility to maintain the property. Councilmember Starkey disagreed with any mitigation, remarking that the banks should take care of properties on which they foreclosed.

Councilmember Starkey made a motion, seconded by Mayor Truex, to impose the full fine amount: \$28,686.59.

Vice-Mayor Luis was concerned that the fines would be passed on to the next buyer, which would hamper the sale of the home. Mayor Truex did not want to send the message to banks that they could neglect foreclosed properties in Davie. Mr. Stallone stated that this property had been cited prior

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to the abandoned property ordinance. The property was now owned by a bank, but there was a pending short sale. When the prospective buyer became aware of the pending fines, he had taken measures to bring the property into compliance quickly.

Councilmember Starkey pointed out what a growing problem abandoned properties were becoming, and she did not favor mitigation for the bank.

Mr. Stallone confirmed that the bank had owned the property when the fines accrued.

Councilmember Crowley made a motion, seconded by Councilmember Starkey, to deny the mitigation request and to impose the original \$28,686.59 fine. Assistant Town Clerk McDaniel clarified that Councilmember Starkey had already made a motion, seconded by Mayor Truex, to impose the full amount. Councilmember Crowley withdrew his motion.

Councilmember Hubert was concerned the potential buyer would not purchase the property with the \$28,686.59 fine attached.

Mr. Stallone explained that the property was out of compliance for 27 days, with four violations accruing \$250 per violation, per day in fines.

Vice-Mayor Luis pointed out this was less than one month, and felt that \$14,000 would be more fair, and less likely to negatively affect the sale. He recommended a \$10,000 fine.

Councilmember Starkey withdrew her motion and Mayor Truex withdrew his second.

Councilmember Starkey made a motion, seconded by Councilmember Crowley, to impose a fine of \$14,000. In a voice vote, with Councilmember Hubert dissenting, all voted in favor. (Motion carried 4-1)

4.18 Vice-Mayor Luis stated that he had spoken with Mr. Rayson about this and confirmed that the Town was not taking any legal risk. Mr. Rayson agreed, and said that a deed from Mr. Finer was being held in escrow for the correct transfer to the Town for the south 25 feet. Due to a scrivener's error, the *north* 25 feet had erroneously been dedicated as right-of-way. If Council approved this tonight, Mr. Rayson would submit the deed for recording.

Vice-Mayor Luis made a motion, seconded by Councilmember Hubert, to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

6. PUBLIC HEARING

Ordinances - Second and Final Reading

6.1 **CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE,**
2009-6 **FLORIDA, AMENDING THE LAND DEVELOPMENT CODE, CHAPTER 12, IN ORDER TO PROVIDE NIGHT SKY REGULATIONS BY AMENDING ARTICLE VIII, DIVISION 2, SECTION 12-260, LIGHTING STANDARDS; SECTION 12-261, STREET LIGHTING; ADDING ARTICLE VIII, DIVISION 2, SECTION 12-262, NIGHT SKY REGULATIONS; AMENDING ARTICLE III, DIVISION 1, SECTION 12-32.524, BUILDING DESIGN GUIDELINES; SECTION 12-32.525, ADDITIONAL DESIGN GUIDELINES; ARTICLE XIV, SECTION 12-503, DEFINITIONS; PROVIDING FOR INCLUSION IN THE TOWN CODE; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (tabled from January 21, 2009) {Approved on First Reading January 7, 2009 subject to amending 12-260 and 12-261 to clean up the language so that lighting is not mandated in the rural lifestyle area, and to eliminate the fossil fuel exemption. All voted in favor.}**

Mr. Rayson read the ordinance by title.

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Mayor Truex opened the public hearing portion of the meeting. As no one spoke, Mayor Truex closed the public hearing portion of the meeting.

Councilmember Starkey made a motion, seconded by Councilmember Hubert, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Luis - yes; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Starkey - yes. (Motion carried 5-0)

6.2
2009-7 **CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE TITLE OF CHAPTER 6, "CODE ENFORCEMENT SYSTEM"; AMENDING SECTION 6-9, OF CHAPTER 6 OF THE CODE OF ORDINANCES BY PROVIDING FOR ALTERNATIVE CODE ENFORCEMENT PROCEDURES PURSUANT TO CHAPTER 162, FLORIDA STATUTES, AS AMENDED FROM TIME TO TIME; PROVIDING FOR THE ENFORCEMENT OF CODE VIOLATIONS BY CITATION; PROVIDING FOR A SCHEDULE OF CIVIL PENALTIES FOR DESIGNATED VIOLATIONS; PROVIDING FOR THE COLLECTION AND RECOVERY OF CIVIL PENALTIES AND COSTS ASSOCIATED WITH CODE ENFORCEMENT; PROVIDING FOR THE SUPERIOR PRIORITY OF TOWN OF DAVIE CODE ENFORCEMENT BOARD AND SPECIAL MAGISTRATE LIENS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, AND AN EFFECTIVE DATE. {Approved on First Reading January 21, 2009. All voted in favor with Councilmember Crowley being absent.}**

Mr. Rayson read the ordinance by title.

Mayor Truex opened the public hearing portion of the meeting. As no one spoke, Mayor Truex closed the public hearing portion of the meeting.

Councilmember Starkey asked why fines were the same for every type of violation. Mr. Stallone responded that staff had followed an existing model for the citations and this was a supplemental enforcement method that would not replace existing Code Enforcement efforts. Code Enforcement measures taken would be based upon conditions of specific violations. If a violation warranted Code Enforcement action to the Special Magistrate process or the Town Attorney's office, this action would be taken. Mr. Stallone felt this was a reasonable way to reduce the Special Magistrate agenda.

Councilmember Crowley made a motion, seconded by Councilmember Hubert, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Luis - yes; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Starkey - yes. (Motion carried 5-0)

6.3
2009-8 **REZONING - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 2-1-06, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM A-1, AGRICULTURAL DISTRICT, TO R-1, ESTATE DWELLING DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB 2-1-06, Living Waters Estates, 14801 SW 23 Street) *Planning & Zoning Board recommended approval with the sidewalk to be placed in the manner as described by the applicant (on the properties and on the easement) and subject to staff's recommendations* {Approved on First Reading January 21, 2009. All voted in favor with Councilmember Crowley being absent.} {see related items 4.18, 4.19 and 4.20}**

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Mr. Rayson read the ordinance by title. Lise Bazinet, Planner II, corrected a statement in the Planning & Zoning Board's motion, which was for the site plan and plat. She added that the Planning & Zoning Board's motion was to approve with no conditions.

Mayor Truex opened the public hearing portion of the meeting. As no one spoke, Mayor Truex closed the public hearing portion of the meeting.

Councilmember Starkey made a motion, seconded by Councilmember Hubert, to approve, subject to Ms. Bazinet's report corrections. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Luis - yes; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Starkey - yes. (Motion carried 5-0)

Ordinance - First Reading/Quasi Judicial Item (Second and Final Reading to be held February 18, 2009)

6.4 **REZONING** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 10-1-08, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM A-1, AGRICULTURAL DISTRICT TO M-3, PLANNED INDUSTRIAL PARK DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB 10-1-09, Herndon, 4903 SW 51 Street) *Planning & Zoning Board recommended approval*

Mr. Rayson read the ordinance by title. Mayor Truex announced that a public hearing on the ordinance would be held on February 18, 2009. Mr. Rayson swore in witnesses.

Mr. Quigley summarized the staff report. In response to Mayor Truex's question, Mr. Quigley stated that specifics for development would be determined after the Traffic Oriented Corridor amendment was approved, and staff did not have a firm recommendation either way.

John Voigt, representing the applicant, explained that the family did not intend to develop the property themselves and was requesting the rezoning to make the property more valuable when they sold it. He distributed brochures regarding the property, read a list of prohibited uses, showed a chart of 11 potential uses allowed in M-3 that were not available in M-1. Mr. Voigt said that the owners would be willing to deed-restrict any uses that were deemed objectionable.

Mayor Truex clarified with Mr. Voigt that the owners were willing to make the list of 11 uses allowed in M-3 conditional. Mayor Truex requested that sexually oriented businesses and gambling of any nature, except for the Florida Lottery, be restricted entirely. Mr. Voigt agreed.

Councilmember Starkey questioned why the family sought M-3 zoning, if they would restrict all uses not permitted in M-1 anyway. Mr. Voigt said that the M-3 zoning would make the property more valuable, even if the uses were not permitted.

Councilmember Luis said that he had spoken with Mr. Shimun regarding this issue who had indicated that there must be an area of Town zoned for adult entertainment. Vice-Mayor Luis said that he would prefer this area be zoned for it rather than University Drive. Councilmember Crowley agreed with Mayor Truex that sexually oriented businesses should be restricted.

Councilmember Starkey indicated that there were already areas with M-3 zoning that would permit sexually oriented businesses and she did not want to create more. She stated that she would not oppose the rezoning, provided the restrictions noted by Mr. Voigt were included.

Mayor Truex asked about Council's discretion in granting certain uses. Mr. Quigley explained that some uses had specific standards in different zoning districts above and beyond the normal zoning.

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Mr. Rayson advised Council to get concessions on the deed restrictions for the uses they wanted to prohibit if they approved the M-3 zoning. Mr. Voigt wanted to leave in the storage yard and sale of construction equipment uses, subject to review and a special permit. Mr. Rayson stated, "I believe you should have the applicant give you deed restrictions on certain things you never want to see, and then you can control the others by having them be permissible uses." Mr. Quigley said that making some uses conditional would create some "procedural strangeness" that might prove difficult to deal with in the future.

Mr. Voigt confirmed that the applicant would be willing to deed restrict gambling and sexually oriented businesses in perpetuity.

Mr. Rayson opened the public hearing portion of the meeting. As no one spoke, Mr. Rayson closed the public hearing portion of the meeting.

Council gave their disclosures on this item.

Councilmember Starkey made a motion, seconded by Vice-Mayor Luis, to approve subject to accepting the deed restrictions in perpetuity for recycling, scrap metal processing, automobile wrecking yard, sexually oriented business, adult entertainment, gambling except for Florida Lottery and storage yard.

Mr. Quigley recommended approving the M-3 zoning change on the condition that the applicant provide deed restrictions as Council described that are recordable, that will protect the Town from those uses in the future. He agreed to bring this back on second reading with this change. Councilmember Starkey noted that her motion had not included the "recordable" language.

Councilmember Crowley did not understand prohibiting a recycling yard, noting that the Town might need one, but said that he would vote in favor of the motion to move the item forward.

Mr. Voigt pointed out that storage yard was a use the owners desired to permit. Mayor Truex remarked that the Town had experienced problems with storage yards in the past, and this would give them control over conditions of such a use.

In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Luis - yes; Councilmember Crowley - yes; Councilmember Hubert - no; Councilmember Starkey - yes. (Motion carried 4-1)

Mr. Voigt offered to restrict the sexually oriented business, adult entertainment and gambling, except for Florida Lottery, in perpetuity, not subject to reconsideration. Councilmember Starkey advised him to put this in writing and submit it.

Item to be tabled

6.5 PETITIONER REQUESTING A TABLING TO MARCH 18, 2009

VARIANCE - V 7-3-08, Yost and Whitehead, 751 Greenbrier Avenue (PRD 3.8) (tabled from November 19, 2008) *Planning & Zoning Board recommended denial and the application be moved to Town Council for the February 18th meeting based on the fact that the letter from the Homeowners' Association seemed to be unclear and the applicant was awaiting the attorney's letter from the Association in order to clarify*

This item was tabled earlier in the meeting.

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7. APPOINTMENTS

7.1 Mayor Truex

- 7.1.1 Youth Education and Safety Advisory Board (one exclusive appointment - term expires April 2010) (members shall, whenever possible, have interest and expertise in law enforcement, elementary school instruction, education matters, child psychology, pediatric medicine, parenthood and grandparenthood)

No appointment was made.

7.2 Vice-Mayor Luis

- 7.2.1 Budget Advisory Committee (one exclusive appointment - term expires April 2010) (members shall have experience in a financial related occupation, or similar skills)

No appointment was made.

- 7.2.2 Parks and Recreation Advisory Board (one exclusive appointment - term expires April 2010) (members should have a concern with or an interest in the park facilities and recreational needs of the citizens of the Town)

No appointment was made.

- 7.2.3 Open Space Advisory Committee Agency (one exclusive - term expires April 2010)

No appointment was made.

7.3 Councilmember Starkey

- 7.3.1 Open Space Advisory Committee Agency (one exclusive appointment - term expires April 2010)

No appointment was made.

- 7.3.2 Youth Education and Safety Advisory Board (one exclusive appointment - term expires April 2010) (members shall, whenever possible, have interest and expertise in law enforcement, elementary school instruction, education matters, child psychology, pediatric medicine, parenthood and grandparenthood)

No appointment was made.

- 7.4 Unsafe Structures Board (one non-exclusive appointment; term expires April 2009) (appointment shall be a plumbing contractor - member shall be a permanent resident or have their principal place of business within the Town's jurisdiction)

No appointment was made.

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8. OLD BUSINESS

8.1 Legal Expenses

Councilmember Hubert explained that she had compared and evaluated past and present Town Attorney's bills and determined the Town was now paying more, when they had thought they would be saving. Mr. Rayson said that he believed the Town was saving money, and felt his firm was doing a great job for the Town. He said that he had matched the rates that Goren, Cherof had charged. Mr. Rayson said that he did not charge pick-up fees or travel time, but Councilmember Hubert cited an instance when Mr. Rayson's paralegal had charged a pick-up fee.

Councilmember Starkey pointed out the large number of communication charges on Mr. Rayson's bills and felt Council should direct Mr. Rayson to curtail some of those expenses. She recommended the accounting office look more closely at this.

Councilmember Crowley had observed that Mr. Rayson did more work himself, while previous Town Attorneys had farmed the work out to other attorneys. He believed Mr. Rayson's office was doing more work, resulting in additional costs. Mayor Truex agreed with Councilmember Crowley and believed Mr. Rayson had done a good job brining in settlements and providing balanced advice.

Councilmember Hubert said that she had been referring to the rate per hour, which had increased by \$25. She thought the Town had changed their attorney to save taxpayer money. Councilmember Crowley said that they had not changed Town Attorney to save money. Councilmember Starkey agreed.

Mr. Rayson agreed to review bills for the past year and credit the Town for any pick-ups for which they should not have been charged. He referred to the PJ's Land Clearing case on which he had spent significant time, but never been able to bill the Town because a control number had never been issued.

8.2 Proposed Dates for FY 2009-2010 Budget Hearings

Council tentatively agreed to meet on September 10th and 24th at 5:15 p.m. for budget meetings and on September 14th at noon for a Special Assessment meeting.

9. NEW BUSINESS

9.1 Construction of an Asphalt Trail from the North Property Line of Robbins Opens Space Property, south to Orange Drive (not budgeted - approximately \$97,600)

Vice-Mayor Luis said that the canal on the east side of Van Kirk was being widened approximately 100 feet. Public Works Director Manny Diez stated that he had heard this from the Town's engineers and they would determine the issues before moving forward.

Later in the meeting, Councilmember Starkey agreed to using funds from District 3 and pointed out that the Open Space Advisory Committee agreed this was appropriate. Mr. Diez described where the asphalt walkway would be located. Councilmember Starkey would prefer if the walkway went into the park instead of on the side of the canal citing safety issues for all users. Councilmember Crowley agreed with Councilmember Starkey about the location of the walkway. Mr. Diez explained that the exact location would be presented to Council when it was submitted for permit. Mr. Diez presented a cost estimate with a proposal and invited Council to make comments and return it to him. Councilmember Starkey agreed to work with staff regarding the location of the pedestrian walkway.

Council directed Mr. Diez to work with Councilmember Starkey to work on a design that would take the walkway inside the park and approved allocation of the funds to move forward.

10. SCHEDULE OF NEXT MEETING

**TOWN COUNCIL MINUTES
FEBRUARY 4, 2009**

11. MAYOR/COUNCILMEMBER'S COMMENTS

MAYOR TRUEX

SHENANDOAH BATHROOMS. Mr. Diez reported the bathrooms should be open and the Town would pay for the bathrooms to be open for the remainder of the year without supervision. He agreed to report to Council if any issues arose.

BAMFORD PRESS BOX. Chief Montopoli said that staff had been instructed to put this into capital projects, but the funds had not been identified. Mr. Diez said that staff was creating a cost estimate which would be presented at Council's next meeting.

RECYCLING AT TOWN HALL. Mr. Diez reported that the janitorial contract was due for rebid and recycling would be included in the new contract.

COUNCILMEMBER STARKEY

FLORIDA LEAGUE OF CITIES BOARD OF DIRECTORS MEETING. Councilmember Starkey requested permission to attend the Florida League of Cities Board of Directors Meeting on March 24th and 25th, and the Municipal Investment Trust meeting on March 26th and 27th. She stated that the Municipal Investment Trust meeting costs would be reimbursed. No objections were noticed.

12. TOWN ADMINISTRATOR'S COMMENTS

No comments were made.

13. TOWN ATTORNEY'S COMMENTS

KATIE CROWLEY BENEFIT. Mr. Rayson asked for information on signing up for the Katie Crowley Run/Walk. Councilmember Crowley recommended that he call Ms. Koch at the Old Davie School. Council agreed the information would be posted to the Town's website.

13.1 Litigation Report

SPECIAL EXECUTIVE SESSION. Mr. Rayson requested an executive session be scheduled for February 18th at 5:30 p.m. for the Club Eden case with Mr. Burke and Mr. Shimun. Council agreed.

14. ADJOURNMENT

There being no further business to discuss and no objections, the meeting was adjourned at 9:39 p.m.

Approved_____

Mayor/Councilmember

Town Clerk